

AMENDED IN SENATE JANUARY 18, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 7

Introduced by Senator Burton

January 18, 2001

An act to add and repeal Section 200 of the Water Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Burton. Public utilities.

Existing law imposes various duties and responsibilities on the Department of Water Resources with respect to the purchase of water and electricity.

This bill would authorize, for a period not to exceed ~~15~~ 12 days from the effective date of the act, the Department of Water Resources to purchase electric power from any party and make that electric power available at the cost of its purchase, plus any *specified* administrative costs, transmission and scheduling costs, and other related costs, incurred by the department, to the Independent System Operator, public utility electrical corporations, or retail end-use customers.

The bill would require that the obligations incurred and funding of the contract and arrangements for the purchase of electric power are to be maintained by the Department of Water Resources, separate and distinct from the funds, moneys and obligations of the State Water Resources Development System. The bill would prohibit the full faith and credit and the taxing power of the state to be pledged for payment of these obligations.

The bill would establish in the State Treasury the Department of Water Resources Electric Power Fund as a continuously appropriated fund and would require all revenues payable to the department under the act to be deposited in the fund. The bill would require payments from the fund to be made only for specified purposes and would require all authorized contracts to be payable solely from the fund.

The bill would require the Public Utilities Commission to adopt and implement emergency regulations to ~~effectuate~~ *provide for* delivery and payment mechanisms relating to the sale of electric power purchased by the Department of Water Resources *for sale* directly or indirectly to the Independent System Operator, public utilities, or retail end-use customers.

This bill would make these provisions inoperative on February 2, 2001, and would repeal them as of January 1, 2002.

The bill would transfer \$400,000,000 from the General Fund to the Department of Water Resources to purchase electric power, as specified.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. — Section 200 is added to the Water Code, to read:~~
 2 *SECTION 1. Section 200 is added to the Water Code, to read:*
 3 *200. (a) The Legislature finds and declares that there is an*
 4 *urgent short-term need for the State of California, through the*
 5 *department, to assist in meeting the public's electricity needs*
 6 *through the emergency purchase of electricity. It is the intent of the*
 7 *Legislature that this section clarify on a temporary basis the*
 8 *department's authority to purchase electricity and make it*
 9 *available to assist in meeting California's energy needs.*
 10 *(b) For a period not to exceed 12 days from the effective date*
 11 *of this section, the department may purchase electric power from*
 12 *any party and make that electric power available at the cost of its*
 13 *purchase, plus any administrative costs (not to exceed a total*
 14 *amount of one million dollars (\$1,000,000) for all purchases*
 15 *entered into pursuant to this section), transmission and scheduling*
 16 *costs, and other related costs, incurred by the department, to the*

1 *Independent System Operator, public utility electrical*
2 *corporations, or retail end-use customers. With respect to electric*
3 *power made available to retail end-use customers, the customers*
4 *shall be responsible for costs at no more than the rates established*
5 *by the Public Utilities Commission in effect on the date the power*
6 *is made available to the customers.*

7 *(c) The purchases made pursuant to this section are separate*
8 *and apart from the State Water Resources Development System,*
9 *and the obligations incurred and funding of those contracts and*
10 *arrangements shall be maintained by the department, separate*
11 *and distinct from the funds, moneys and obligations of the State*
12 *Water Resources Development System.*

13 *(d) Notwithstanding any other provision of law, the department*
14 *shall use any and all means feasible, as determined by the*
15 *department, to secure the state's right and ability to recover funds*
16 *expended pursuant to this section.*

17 *(e) No contract or purchase agreement shall contain terms that*
18 *diminish the state's interest in recovering any funds expended for*
19 *purchase of power at rates that exceed just and reasonable rates.*

20 *(f) There is hereby established in the State Treasury the*
21 *Department of Water Resources Electric Power Fund.*
22 *Notwithstanding Section 13340 of the Government Code, money*
23 *in the fund is continuously appropriated without regard to fiscal*
24 *year to the department for purposes of this section. All revenues*
25 *payable to the department under this act shall be deposited in the*
26 *fund. Notwithstanding any other provision of law, interest*
27 *accruing on money in the fund shall remain in the fund and shall*
28 *be used for the purposes of this act. Payments from the fund may*
29 *be made only for the purposes authorized by this section.*

30 *(g) All contracts authorized by this act shall be payable solely*
31 *from the fund established pursuant to this section.*

32 *(h) Neither the full faith and credit nor the taxing power of the*
33 *state are or may be pledged for payment for any obligation*
34 *authorized under this section.*

35 *(i) The Public Utilities Commission shall adopt and implement*
36 *emergency regulations that shall become effective on the operative*
37 *date of this section to provide for delivery and payment*
38 *mechanisms relating to the sale of electric power purchased by the*
39 *department for sale directly or indirectly to the Independent*
40 *System Operator, public utilities, or retail end-use customers.*

(j) No purchases of electric power shall be entered into pursuant to this section after February 1, 2001. No purchases of electric power entered into pursuant to this section may extend in duration past February 15, 2001.

(k) This section shall become inoperative on February 2, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of four hundred million dollars (\$400,000,000) is hereby transferred from the General Fund to the Department of Water Resources Electric Power Fund, established by Section 200 of the Water Code, for the purposes of implementing Section 1 of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the State of California and its citizens have an adequate supply of electricity, thereby preserving the public health, safety, and welfare, it is necessary that this act take effect immediately.

~~200. (a) The Legislature finds and declares that there is an urgent short-term need for the State of California, through the department, to assist in meeting the public's electricity needs through the emergency purchase of electricity. It is the intent of the Legislature that this section clarify on a temporary basis the department's authority to purchase electricity and make it available to assist in meeting California's energy needs.~~

~~(b) For a period not to exceed 12 days from the effective date of this section, the department may purchase electric power from any party and make that electric power available at the cost of its purchase, plus any administrative costs, transmission and scheduling costs, and other related costs, incurred by the department, to the Independent System Operator, public utility electrical corporations, or retail end-use customers.~~

~~(c) The purchases made pursuant to this section are separate and apart from the State Water Resources Development System, and the obligations incurred and funding of those contracts and arrangements shall be maintained by the department, separate and~~

1 distinct from the funds, moneys and obligations of the State Water
2 Resources Development System.

3 (d) Notwithstanding any other provision of law, the department
4 shall use any and all means feasible, as determined by the
5 department, to secure the state's interest in recovering funds
6 expended pursuant to this section.

7 (e) There is hereby established in the State Treasury the
8 Department of Water Resources Electric Power Fund.
9 Notwithstanding Section 13340 of the Government Code, money
10 in the fund is continuously appropriated without regard to fiscal
11 year to the department for purposes of this section. All revenues
12 payable to the department under this act shall be deposited in the
13 fund. Notwithstanding any other provision of law, interest
14 accruing on money in the fund shall remain in the fund and shall
15 be used for the purposes of this act. Payments from the fund may
16 be made only for the purposes authorized by this section.

17 (f) All contracts authorized by this act shall be payable solely
18 from the fund established pursuant to this section.

19 (g) Neither the full faith and credit nor the taxing power of the
20 state are or may be pledged for payment for any obligation
21 authorized under this section.

22 (h) The Public Utilities Commission shall adopt and implement
23 emergency regulations to effectuate delivery and payment
24 mechanisms relating to the sale of electric power purchased by the
25 department directly or indirectly to the Independent System
26 Operator, public utilities, or retail end-use customers.

27 (i) No purchases of electric power shall be entered into
28 pursuant to this section after February 1, 2001. No purchases of
29 electric power entered into pursuant to this section may extend in
30 duration past February 1, 2001.

31 (j) This section shall become inoperative on February 2, 2001,
32 and, as of January 1, 2002, is repealed, unless a later enacted statute
33 that is enacted before January 1, 2002, deletes or extends the dates
34 on which it becomes inoperative and is repealed.

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36 (\$400,000,000) is hereby transferred from the General Fund to the
37 Department of Water Resources Electric Power Fund, established
38 by Section 200 of the Water Code, for the purposes of
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